

AO 243
REV 6/82MOTION UNDER 28 USC § 2255 TO VACATE, SET ASIDE, OR CORRECT
SENTENCE BY A PERSON IN FEDERAL CUSTODY

United States District Court		District CV 07-00052 ACK DMK District of Hawaii
Name of Movant Rick Vo	Prisoner No. 95795-012	Docket No. CR-02-00411-ACK
Place of Confinement Taft Correctional Institution (FCI-Low)		
(include name upon which convicted)		
UNITED STATES OF AMERICA	v.	RICK K. VO (full name of movant)

MOTION

1. Name and location of court which entered the judgment of conviction under attack U.S. District Court, District of Hawaii, 300 Ala Moana Blvd., Honolulu, HI 96850
2. Date of judgment of conviction December 24, 2003
3. Length of sentence 262-Months
4. Nature of offense involved (all counts) Aiding and abetting in the possession with the intent to distribute over fifty-grams of methamphetamine in violation of 18 U.S.C. §2 and 21 U.S.C. §841(a)(1) (Count II)

5. What was your plea? (Check one)

(a) Not guilty ☒

(b) Guilty ☐

(c) Nolo contendere ☐

If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, give details:

N/A

6. Kind of trial: (Check one)

(a) Jury ☒

(b) Judge only ☐

7. Did you testify at the trial?
Yes ☐ No ☒

8. Did you appeal from the judgment of conviction?
Yes ☒ No ☐

FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

JAN 30 2007

at 4 o'clock and 20 min PM
SUE BEITIA, CLERK

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9. If you did appeal, answer the following:

(a) Name of court Ninth Circuit Court of Appeals

(b) Result Conviction AFFIRMED

(c) Date of result June 27, 2005

10. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications or motions with respect to this judgment in any federal court?
Yes ☐ No ☒

11. If your answer to 10 was "yes," give the following information:

(a) (1) Name of court N/A

(2) Nature of proceeding _____

(3) Grounds raised _____

(4) Did you receive an evidentiary hearing on your petition, application or motion?
Yes ☐ No ☐

(5) Result _____

(6) Date of result _____

(b) As to any second petition, application or motion give the same information:

(1) Name of court N/A

(2) Nature of proceeding _____

(3) Grounds raised _____

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(4) Did you receive an evidentiary hearing on your petition, application or motion?

Yes ☐ No ☐

(5) Result _____

(6) Date of result _____

(c) As to any third petition, application or motion, give the same information:

(1) Name of court N/A

(2) Nature of proceeding _____

(3) Grounds raised _____

(4) Did you receive an evidentiary hearing on your petition, application or motion?

Yes ☐ No ☐

(5) Result _____

(6) Date of Result _____

(d) Did you appeal, to an appellate federal court having jurisdiction, the result of action taken on any petition, application or motion?

(1) First petition, etc. Yes ☐ No ☐(2) Second petition, etc. Yes ☐ No ☐(3) Third petition, etc. Yes ☐ No ☐

(e) If you did not appeal from the adverse action on any petition, application or motion, explain briefly why you did not:

12. State concisely every ground on which you claim that you are being held unlawfully. Summarize briefly the facts supporting each ground. If necessary, you may attach pages stating additional grounds and facts supporting same.

CAUTION: If you fail to set forth all grounds in this motion, you may be barred from presenting additional grounds at a later date.

For your information, the following is a list of the most frequently raised grounds for relief in these proceedings. Each statement preceded by a letter constitutes a separate ground for possible relief. You may raise any grounds which you have other than those listed. However, you should raise in this motion all available grounds (relating to this conviction) on which you based your allegations that you are being held in custody unlawfully.

Do not check any of these listed grounds. If you select one or more of these grounds for relief, you must allege facts. The motion will be returned to you if you merely check (a) through (j) or any one of the grounds.

(a) Conviction obtained by plea of guilty which was unlawfully induced or not made voluntarily or with understanding of the nature of the charge and the consequences of the plea.

(b) Conviction obtained by use of coerced confession.

(d) If you did not appeal from the action on any motion, petition, or application, explain briefly why you did not: _____

12. For this motion, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

GROUND ONE: Petitioner was denied effective assistance of counsel.

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):
During Petitioner's trial counsel failed to pursue a confirmed jury tampering incident that eventually affected the jury's verdict. The incident was reported to the judge but counsel failed to follow up.

(b) Direct Appeal of Ground One:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☒

(2) If you did not raise this issue in your direct appeal, explain why: An issue of ineffective assistance of counsel may be raised only through a motion to vacate, set aside, or correct a sentence.

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐ No ☒

(2) If your answer to Question (c)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐ No ☐

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐ No ☐

(5) If your answer to Question (c)(4) is "Yes," did you raise this issue in the appeal?

Yes ☐ No ☐

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: _____

GROUND TWO: Petitioner was denied effective assistance of
counsel.

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim):
Petitioner's counsel failed to object to Petitioner's wife's
testimony, under the privileged communication rule. Thus
barring the appeal's court review.

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(e) On appeal Mihael Weight/Peter Wolff, (same as above)

(f) In any post-conviction proceeding N/A

(g) On appeal from any adverse ruling in a post-conviction proceeding N/A

16. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at approximately the same time?

Yes ☐ No ☒

17. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack?

Yes ☐ No ☒

(a) If so, give name and location of court which imposed sentence to be served in the future: N/A

(b) Give date and length of the above sentence: _____

(c) Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed the sentence to be served in the future?

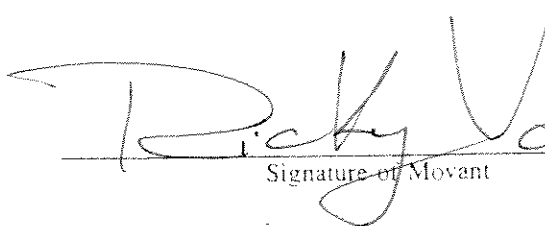
Yes ☐ No ☐

Wherefore, movant prays that the Court grant him all relief to which he may be entitled in this proceeding.

Signature of Attorney (if any)

I declare under penalty of perjury that the foregoing is true and correct. Executed on

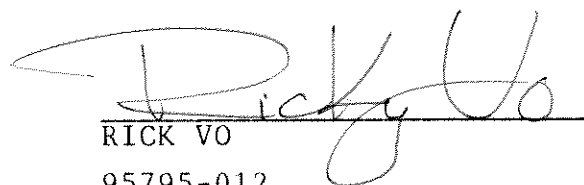
NOV-19-06
(date)


Signature of Movant

DECLARATION OF MAILING

I HEREBY DECLARE UNDER PENALTY OF PERJURY THAT THE FOLLOWING
MOTION WAS MAILED ON Nov-19-06. TO THE FOLLOWING
PARTIES:

Nov-19-06
DATE



RICK VO
95795-012
P.O. BOX 7001
TAFT, CA. 93268

1. Rick Vo # 95795-012
2. Taft Correctional Institution
3. P.O.Box 7001
4. Taft, CA. 93268

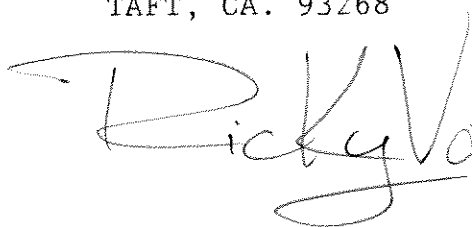
5. **AFFIDAVIT IN SUPPORT MOTION TO EXTEND TIME**

6. I, Rick Vo, swear under penalty of perjury that on
7. November 19, 2006, I mailed, by inserting in Taft Correctional
8. Institution's mailbox a § 2255 motion to the Clerk of the District
9. Court for the district of Hawaii. I, further, swear that a
10. copy was also mailed to the Assistant United States Attorney.
11. The motion was addressed as follows:

12.
13.
14.
15. DATED:

16. 1-21-07

17. RICK VO # 95795-012
18. P.O.BOX 7001
19. TAFT, CA. 93268

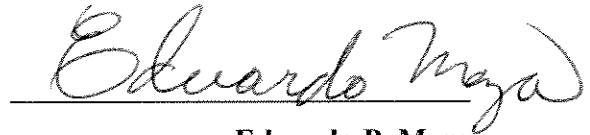
20. 
21.
22.
23.
24.
25.
26.
27.
28.

JANUARY 21, 2007

AFFIDAVIT

I, Eduardo P. Meza, swear under penalty of perjury that the following is true to the best of my knowledge:

On November 19, 2006, Rick Vo Placed an envelope in the Taft Institutional Mailbox. The envelope contained Mr. Vo's section 2255 Motion, and was addressed to the Clerk of The United States District Court, District of Hawaii.

A handwritten signature in cursive script, reading "Eduardo Meza", is written over a horizontal line.

Eduardo P. Meza

21069-112

P. O. Box 7001

Taft, CA. 93268

Rick Vo #95795-012
Taft Correctional Institution
P.O.Box 7001
Taft, CA. 93268

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS. FOLD AT DOTTED LINE

CERTIFIED MAIL



7001 0360 0002 8583 9743

UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII
PJKK FEDERAL BUILDING
300 Ala Moana Boulevard Suite# C338
Honolulu, HI. 96850-0338

